

AMENDED IN SENATE JULY 9, 2009  
AMENDED IN ASSEMBLY JUNE 1, 2009  
AMENDED IN ASSEMBLY MAY 20, 2009  
AMENDED IN ASSEMBLY APRIL 29, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1020**

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**Introduced by Assembly Members Emmerson and Ma**

February 27, 2009

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An act to *amend Section 18942 of, and to add Sections 116064.1 and 116064.2 to, the Health and Safety Code, relating to swimming pools; and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1020, as amended, Emmerson. Public swimming pools: anti-entrapment devices and systems.

~~Under~~

(1) *Under* existing law, public wading pools, as defined, are required to equip drain suction outlets with specified anti-entrapment grates to prevent physical entrapment of the bathers. Under existing law, the Swimming Pool Safety Act, public swimming pools are exempted from that act's requirements that newly constructed pools be equipped with specified safety features, including anti-entrapment grates for drain suction outlets.

This bill would require an existing public swimming pool, as defined, to be equipped with anti-entrapment devices or systems that meet ASME/ANSI or ASTM performance standards. It would also require an existing public swimming pool with a single main drain that is not

an unblockable drain to meet at least one of the specified standards. The bill would impose timeframes by which its requirements must be met, subject to exceptions, as specified.

The bill would require that every newly constructed public swimming pool have at least 2 main drains per pump that are hydraulically balanced and symmetrically plumbed through one or more “T” fittings, and be separated by a ~~distances~~ *distance* of at least 3 feet in any dimension between the drains.

~~Subsequent to the effective date of the bill,~~

~~This bill would authorize the State Department of Public Health is authorized to approve amendments or successors to these standards.~~

The bill would require the department to develop, and a public swimming pool owner to file, a form to indicate compliance with the requirements of the bill, as specified. The form would be required to include a certification by a qualified individual, as defined, that prescribed factual information provided on the form is true *to the best of his or her knowledge*.

This bill would declare the intent of Legislature to occupy the whole field of health and safety standards for public swimming pools and to preempt all local health and safety standards relating to public swimming pools.

This bill would authorize local health departments to impose a fee on the owners of public swimming pools to cover the *actual* costs of enforcement incurred pursuant to the bill, *but* in an amount not to exceed ~~the actual costs of enforcement~~ \$1.

This bill would also authorize the department, until January 1, 2014, in addition to any fee imposed by local health officials pursuant to the bill, to assess a fee, as prescribed, *but in an amount not to exceed \$5*, to defray the department’s costs of carrying out its duties under the bill. The applicable local health department would be required to ~~collect this fee, and transmit the fee collected~~ *bill the owner of each public swimming pool in its jurisdiction for the amount of the state fee and remit money collected to the Controller. The bill would require a local health department to submit to the department, every 6 months, a list containing specified information regarding owners of public swimming pools who have failed to pay the state fees for more than 90 days, as prescribed. The bill would require any moneys collected from this state fee by either the local health department or the department to the Controller for deposit be deposited* into the Recreational Health Fund, created by the

bill. Money in that fund would be available, upon appropriation by the Legislature, for carrying out ~~its~~ *the department's* duties under the bill.

Violation of ~~the these~~ requirements ~~of the bill~~ would constitute a misdemeanor. By creating new crimes, the bill would impose a state-mandated local program.

(2) *Existing law requires the California Building Standards Commission to publish editions of the California Building Standards Code, as prescribed. Existing law requires the commission to publish the text of specified statutes in the code.*

*This bill would require the commission to publish the text of specified provisions of the bill within the California Building Standards Code, as prescribed.*

By imposing new duties on local building officials and local health officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for specified reasons.

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote:  $\frac{2}{3}$ -majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1     *SECTION 1. Section 18942 of the Health and Safety Code is*
- 2     *amended to read:*
- 3     18942. (a) The commission shall publish, or cause to be
- 4     published, editions of the code in its entirety once in every three
- 5     years. In each intervening year the commission shall publish, or
- 6     cause to be published, supplements as necessary. For emergency
- 7     building standards defined in subdivision (a) of Section 18913, an
- 8     emergency building standards supplement shall be published
- 9     whenever the commission determines it is necessary.
- 10    (b) The commission shall publish the text of Article 2.5
- 11    (commencing with Section 115920) of Chapter 5 of Part 10 of
- 12    Division 104, within the ~~California Code of Regulations, Title 24,~~
- 13    ~~Part 2~~ requirements for single-family residential occupancies

1 *contained in Part 2 of Title 24 of the California Code of*  
2 *Regulations, with the following note:*

3 “NOTE: These regulations are subject to local government  
4 modification. You should verify the applicable local  
5 government requirements at the time of application for a  
6 building permit.”

7 *(c) The commission shall publish the text of Section 116064.2*  
8 *within Part 2 of Title 24 of the California Code of Regulations.*

9 ~~(e)~~

10 *(d) The commission may publish, stockpile, and sell at a*  
11 *reasonable price the code and any materials incorporated therein*  
12 *by reference if it deems the latter is insufficiently available to the*  
13 *public, or unavailable at a reasonable price. Each state department*  
14 *concerned and each city, county, or city and county shall have an*  
15 *up-to-date copy of the code available for public inspection.*

16 ~~(d)~~

17 *(e) (1) Each city, county, and city and county, including charter*  
18 *cities, shall obtain and maintain with all revisions on a current*  
19 *basis, at least one copy of the building standards and other state*  
20 *regulations relating to buildings published in Titles 8, 19, 20, 24,*  
21 *and 25 of the California Code of Regulations. These codes shall*  
22 *be maintained in the office of the building official responsible for*  
23 *the administration and enforcement of this part.*

24 *(2) This subdivision shall not apply to any a city or county*  
25 *which that contracts for the administration and enforcement of the*  
26 *provisions of this part with another local government agency that*  
27 *complies with this section.*

28 **SECTION 1.**

29 *SEC. 2. Section 116064.1 is added to the Health and Safety*  
30 *Code, to read:*

31 *116064.1. The Legislature finds and declares that the public*  
32 *health interest requires that there be uniform statewide health and*  
33 *safety standards for public swimming pools to prevent physical*  
34 *entrapment and serious injury to children and adults. It is the intent*  
35 *of the Legislature to occupy the whole field of health and safety*  
36 *standards for public swimming pools and the requirements*  
37 *established in this article and the regulations adopted pursuant to*  
38 *this article shall be exclusive of all local health and safety standards*  
39 *relating to public swimming pools.*

~~SEC. 2.~~

SEC. 3. Section 116064.2 is added to the Health and Safety Code, to read:

116064.2. (a) As used in this section, the following words have the following meanings:

(1) “ASME/ANSI performance standard” means a standard that is accredited by the American National Standards Institute and published by the American Society of Mechanical Engineers.

(2) “ASTM performance standard” means a standard that is developed and published by ASTM International.

(3) “Main drain” means a submerged suction outlet typically located at the bottom of a swimming pool that conducts water to a recirculating pump.

(4) “Public swimming pool” means an outdoor or indoor structure, whether in-ground or above-ground, intended for swimming or recreational bathing, including a swimming pool, hot tub, spa, ~~portable spa~~, or nonportable wading pool, that is any of the following:

(A) Open to the public generally, whether for a fee or free of charge.

(B) Open exclusively to members of an organization and their guests, residents of a multiunit apartment building, apartment complex, residential real estate development, or other multifamily residential area, or patrons of a hotel or other public accommodations facility.

(C) Located on the premises of an athletic club, or public or private school.

(5) “Qualified individual” means a contractor who holds a current valid license issued by the State of California or a professional engineer licensed in the State of California who has experience working on public swimming pools.

(6) “Safety vacuum release system” means a vacuum release system that ceases operation of the pump, reverses the circulation flow, or otherwise provides a vacuum release at a suction outlet when a blockage is detected.

(7) “Skimmer equalizer line” means a suction outlet located below the waterline and connected to the body of a skimmer that prevents air from being drawn into the pump if the water level drops below the skimmer weir. However, a skimmer equalizer line is not a main drain.

1     ~~(7)~~

2     (8) “Unblockable drain” means a drain of any size and shape  
3     that a human body cannot sufficiently block to create a suction  
4     entrapment hazard.

5     (b) Subject to subdivision (c), an ASME/ANSI or ASTM  
6     performance standard relating to anti-entrapment devices or  
7     systems or an amendment or successor to, or later published edition  
8     of an ASME/ANSI or ASTM performance standard relating to  
9     anti-entrapment devices or systems shall become the applicable  
10    standard in California 90 days after publication by ASME/ANSI  
11    or ASTM, respectively, provided that the performance standard  
12    or amendment or successor to, or later published edition is  
13    approved by the department within 90 days of the publication of  
14    the performance standard by ASME/ANSI or ASTM, respectively.  
15    Notwithstanding any other law, the department may implement,  
16    interpret, or make specific the provisions of this section by means  
17    of a policy letter or similar instruction and this action by the  
18    department shall not be subject to the rulemaking requirements of  
19    the Administrative Procedure Act (Chapter 3.5 (commencing with  
20    Section 11340) of Part 1 of Division 3 of Title 2 of the Government  
21    Code), ~~except that, if the department approves a performance~~  
22    ~~standard or an amendment or successor to, or later published~~  
23    ~~edition of, a performance standard, the department shall adopt and~~  
24    ~~file with the Secretary of State a regulation to that effect. Code).~~

25    (c) ~~Subject to subdivisions (e) and subdivision (f), every public~~  
26    swimming pool shall be equipped with anti-entrapment devices  
27    or systems that comply with ASME/ANSI performance standard  
28    A112.19.8, ~~as in effect on the date immediately prior to the~~  
29    ~~effective date of this section~~ *December 31, 2009*, or any applicable  
30    ASME/ANSI performance standard that has been adopted by the  
31    department pursuant to subdivision (b).

32    (d) Subject to subdivisions (e) and (f), every public swimming  
33    pool with a single main drain that is not an unblockable drain shall  
34    be equipped with at least one or more of the following devices or  
35    systems that are designed to prevent physical entrapment by pool  
36    drains:

37    (1) A safety vacuum release system that has been tested by a  
38    department-approved independent third party and found to conform  
39    to ASME/ANSI performance standard A112.19.17, ~~as in effect on~~  
40    ~~the date immediately prior to the effective date of this section, or~~

1 *December 31, 2009, or any applicable ASME/ANSI performance*  
2 *standard that has been adopted by the department pursuant to*  
3 *subdivision (b), or ASTM performance standard F2387, as in effect*  
4 *on the date immediately prior to the effective date of this section*  
5 *December 31, 2009, or any applicable ASTM performance standard*  
6 *that has been adopted by the department pursuant to subdivision*  
7 *(b).*

8 (2) A suction-limiting vent system with a tamper-resistant  
9 atmospheric opening, provided that it conforms to any applicable  
10 ASME/ANSI or ASTM performance standard that has been  
11 adopted by the department pursuant to subdivision (b).

12 (3) A gravity drainage system that utilizes a collector tank,  
13 provided that it conforms to any applicable ASME/ANSI or ASTM  
14 performance standard that has been adopted by the department  
15 pursuant to subdivision (b).

16 (4) An automatic pump shut-off system tested by a  
17 department-approved independent third party and found to conform  
18 to any applicable ASME/ANSI or ASTM performance standard  
19 that has been adopted by the department pursuant to subdivision  
20 (b).

21 (5) Any other system that is deemed, in accordance with federal  
22 law, to be equally effective as, or more effective than, the systems  
23 described in paragraphs (1) to (4), inclusive, at preventing or  
24 eliminating the risk of injury or death associated with pool drainage  
25 systems.

26 (e) Every public swimming pool constructed on or after January  
27 1, 2010, shall have at least two main drains per pump that are  
28 hydraulically balanced and symmetrically plumbed through one  
29 or more “T” fittings, and are separated by a distance of at least  
30 three feet in any dimension between the drains. A public swimming  
31 pool constructed on or after January 1, 2010, that meets the  
32 requirements of this subdivision, shall be exempt from the  
33 requirements of ~~subdivisions (c) and~~ *subdivision (d)*.

34 (f) A public swimming pool constructed prior to January 1,  
35 2010, shall be retrofitted to comply with subdivisions (c) and (d)  
36 by no later than December 19, 2010, except that no further  
37 retrofitting is required for a public swimming pool that completed  
38 a retrofit between December 19, 2007, and January 1, 2010, that  
39 complied with the Virginia Graeme Baker Pool and Spa Safety  
40 Act (15 U.S.C. Sec. 8001 et seq.) as in effect on the date of issue

1 of the construction permit, or for a nonportable wading pool that  
2 completed a retrofit prior to January 1, 2010, that complied with  
3 state law on the date of issue of the construction permit. *A public*  
4 *swimming pool owner who meets the exception described in this*  
5 *subdivision shall do one of the following:*

6 (1) *File the form issued by the department pursuant to*  
7 *subdivision (g), as otherwise provided in subdivision (h), prior to*  
8 *September 30, 2010.*

9 (2) *File a signed statement attesting to all of the following:*

10 (A) *The required work has been completed.*

11 (B) *The name and license number of the qualified individual*  
12 *who completed the work.*

13 (C) *A copy of the final building permit, if required by the local*  
14 *agency, or a copy of another document that describes the*  
15 *modifications if no building permit was required.*

16 (D) *A copy of the final paid invoice.*

17 (g) ~~Within 90 days of the effective date of this section~~ *Prior to*  
18 *March 31, 2010, the department shall issue a form for use by an*  
19 *owner of a public swimming pool to indicate compliance with this*  
20 *section. The department shall consult with county health officers*  
21 *and directors of departments of environmental health in developing*  
22 *the form and shall post the form on the department's Internet Web*  
23 *site. The form shall be completed by the owner of a public*  
24 *swimming pool prior to filing the form with the appropriate city,*  
25 *county, or city and county department of environmental health.*  
26 *The form shall include, but not be limited to, the following*  
27 *information:*

28 (1) *A statement of whether the pool operates with a single or*  
29 *split main drain.*

30 (2) *Identification of the type of anti-entrapment device or system*  
31 *that has been installed and the date of installation* ~~or the reason~~  
32 ~~why the requirement is not applicable.~~

33 (3) *Identification of the type of device or system designed to*  
34 *prevent physical entrapment that has been installed and the date*  
35 *of installation or the reason why the requirement is not applicable.*

36 (4) *A signature and license number of a qualified individual*  
37 *who certifies that the factual information provided on the form in*  
38 *response to paragraphs (1) to (3), inclusive, is true to the best of*  
39 *his or her knowledge.*



1     (h) A material failure on the part of a qualified individual to  
2     comply with subdivision (g) shall subject that individual to  
3     potential disciplinary action at the discretion of the licensing  
4     authority.

5     ~~(h) Each~~

6     (i) Except as provided in subdivision (f), each public swimming  
7     pool owner shall file a completed copy of the form issued by the  
8     department pursuant to this section with the city, county, or city  
9     and county department of environmental health in the city, county,  
10    or city and county in which the swimming pool is located. The  
11    form shall be filed within 30 days following the completion of the  
12    swimming pool construction or installation required pursuant to  
13    ~~subdivisions (e) and (f) this section or, if the construction or~~  
14    ~~installation is completed prior to the date that the department~~  
15    ~~issues the form pursuant to this section, within 30 days of the date~~  
16    ~~that the department issues the form.~~ The public swimming pool  
17    owner or operator shall not make a false statement, representation,  
18    certification, record, report, or otherwise falsify information that  
19    he or she is required to file or maintain pursuant to this section.

20    ~~(i)~~

21    (j) In enforcing this section, health officers and directors of city,  
22    county, or city and county departments of environmental health  
23    shall consider documentation filed on or with the form issued  
24    pursuant to this section by the owner of a public swimming pool  
25    as evidence of compliance with this section. A city, county, or city  
26    and county department of environmental health may verify the  
27    accuracy of the information filed on or with the form.

28    (k) To the extent that the requirements for public wading pools  
29    imposed by Section 116064 conflict with this section, the  
30    requirements of this section shall prevail.

31    (l) Local health departments may impose a fee on owners of  
32    public swimming pools *in an amount* to cover the *actual* costs of  
33    enforcement imposed pursuant to Section 116064.1 and this  
34    section, ~~in an amount not to exceed the actual cost of enforcement.~~  
35    ~~pursuant to Section 116064.1 and this section, but in no case shall~~  
36    ~~this fee exceed one dollar (\$1).~~

37    (m) (1) Until January 1, 2014, and in addition to any fee  
38    imposed by local health officials pursuant to subdivision (l), the  
39    department may assess an annual fee on the owners of *each* public  
40    swimming ~~pools~~ pool, to be collected by the applicable local health

1 department, in an amount not to exceed the amount necessary to  
2 defray the department's costs of carrying out its duties under  
3 Section 116064.1 and this section *but in no case shall this fee*  
4 *exceed five dollars (\$5).*

5 (2) *The local health department shall bill the owner of each*  
6 *public swimming pool in its jurisdiction for the amount of the state*  
7 *fee. The local health department shall transmit the collected state*  
8 *fee to the Controller for deposit into the Recreational Health Fund,*  
9 *which is hereby created in the State Treasury. The local health*  
10 *department shall not be required to take action to collect an unpaid*  
11 *state fee, but shall submit to the department, every six months, a*  
12 *list containing the name and address of the owner of each public*  
13 *swimming pool who has failed to pay the state fee for more than*  
14 *90 days after the date that the bill was provided to the owner of*  
15 *the public swimming pool.*

16 (3) *Owners that are exempt from local swimming pool permit*  
17 *fees shall also be exempt from the fees imposed pursuant to this*  
18 *subdivision.*

19 ~~(2) The local health department shall transmit fees collected~~  
20 ~~pursuant to paragraph (1) to the Controller for deposit into the~~  
21 ~~Recreational Health Fund, which is hereby created in the State~~  
22 ~~Treasury.~~

23 (4) *All moneys collected by the department pursuant to this*  
24 *section shall be deposited into the Recreational Health Fund.*  
25 Notwithstanding Section 16305.7 of the Government Code, interest  
26 and dividends on moneys in the Recreational Health Fund shall  
27 also be deposited in the fund. Moneys in the fund shall, upon  
28 appropriation by the Legislature, be available to the department  
29 for carrying out its duties under Section 116064.1 and this section  
30 *and shall not be redirected for any other purpose.*

31 ~~SEC. 3.~~

32 SEC. 4. No reimbursement is required by this act pursuant to  
33 Section 6 of Article XIII B of the California Constitution for certain  
34 costs that may be incurred by a local agency or school district  
35 because, in that regard, this act creates a new crime or infraction,  
36 eliminates a crime or infraction, or changes the penalty for a crime  
37 or infraction, within the meaning of Section 17556 of the  
38 Government Code, or changes the definition of a crime within the  
39 meaning of Section 6 of Article XIII B of the California  
40 Constitution.

1 No reimbursement is required by this act pursuant to Section 6  
2 of Article XIII B of the California Constitution for certain other  
3 costs that may be incurred by a local agency or school district  
4 because a local agency or school district has the authority to levy  
5 service charges, fees, or assessments sufficient to pay for the  
6 program or level of service mandated by this act, within the  
7 meaning of Section 17556 of the Government Code.

8 ~~SEC. 4. This act is an urgency statute necessary for the~~  
9 ~~immediate preservation of the public peace, health, or safety within~~  
10 ~~the meaning of Article IV of the Constitution and shall go into~~  
11 ~~immediate effect. The facts constituting the necessity are:~~

12 ~~In order to conform state law with federal requirements for the~~  
13 ~~prevention of drowning, at the earliest possible time, it is necessary~~  
14 ~~that this act take effect immediately.~~